

**BOARD OF PERSONNEL APPEALS
MEETING MINUTES
July 20, 2017**

PRESENT:

Anne MacIntyre, Presiding Officer
Jim Soumas, Labor Member
Steve Johnson, Management Member

Rina Moore, Management Member – by
telephone
Quint Nyman, Labor Member

STAFF ATTENDING:

Tim Little, Board Attorney
Patty Anderson, Board Secretary
Theresa Sroczyk
Windy Knutson
Max Hallfrisch

BOARD BUSINESS

APPROVAL OF MINUTES (1:16 – 2:04):

Member Johnson moved to approve the minutes of the April meeting. Member Soumas seconded the motion. Motion passed 5-0.

NEXT MEETING DATE (2:05: - 2:29):

August 17, 2017, pending any appeals.

PUBLIC COMMENT (2-3-103 MCA) (2:30 – 2:53):

No public comment was made.

STAFF/ATTORNEY COMMENTS (2:54 – 5:00):

Board Attorney Tim Little notified the Board that the July Board Meeting would be his last meeting with the Board as he is transferring over to the case manager position at the Human Rights Bureau. Mark Cadwallader will be filling in until they have a permanent replacement. Windy Knutson introduced Theresa Sroczyk as John Andrew's replacement.

Administrative Rules Clean Up (5:45 – 13:45)

- **ARM 24.26.614**

Board Attorney Tim Little followed up on the e-mail sent out to the Board Members. There has been a good deal of back and forth with the Office of Administrative Hearings about how to structure the rule. Department of Labor and Industry administration supports this version of the rule. This version does include language that allows Hearings Examiner to extend the deadline by the additional 30 days rather than just by motion and good cause shown by the parties.

Discussion ensued regarding the rule change.

Member Nyman moved to approve the rule changes proposed by Board Attorney Tim Little to Rule ARM 24.26.614. Steve Johnson seconded the motion. 5-0, motion passed.

Oral Argument: Compensation Grievance 3-2014 (0:00 – 1:05:43)

Petitioner: April Armstrong, David R. Barnhill, K. Amy Pfeifer, Peggy Probasco, and Patrick Quinn, Attorneys, Position Numbers: 05020, 05203, 05022, 05023. 05242

Respondent: State Personnel Division, Department of Administration, Department of Public Health and Human Services, Child Support Enforcement Division

Anne MacIntyre was the Presiding Officer in this matter. Board Members in attendance were: Member Johnson, Member Soumas, Member Nyman and Member Moore by telephone. Linda Deola represented the Petitioners. Jeffrey Doud represented the Department of Public Health and Human Services and Marjorie Thomas represented the Department of Administration.

The matter before the Board was to determine if the Hearing Officer erred in his decision to accept certain evidence as previously directed by the Board and the pay decisions regarding non-union employees. Arguments were heard, no questions were asked by Board Members.

Member Johnson moved to adopt the Hearing Officer's Findings of Fact and Conclusions of Law with regard to the Decision on Remand. Member Nyman seconded the motion. Discussion took place regarding the discussion portion of the Decision on Remand and whether or not to strike or disregard certain portions of the discussion and analysis.

Motion carried 4-1.

Discussion took place as to the drafting of the order given the issues the Board has regarding the discussion section of the Decision on Remand.

Member Johnson moved for a second motion that Board Attorney Little identify Conclusions of Law in the discussion section of the Hearing Officer's Recommended Order that are inconsistent with the Board's Determination in this matter or the Conclusions of Law that are set forth in that section of the Order.

Board Chair MacIntyre added: and include in the Board's final Order a discussion and explanation of the Conclusions being rejected by the Board

Member Johnson withdrew his second motion.

Board Chair MacIntyre moved that in the Final Agency Decision by the Board the Board's discussion should address inconsistent Conclusions of Law contained in the discussion portion of the Recommended Order on Remand. That the Board Attorney Little draft that section for review by the Board.

Member Nyman seconded the motion.

Motion carried 5-0.

Meeting adjourned